

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

SEP 9 - 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.202(b), )  
Table of Allotments, ) RM-  
FM Broadcast Stations )  
(Eaton, Colorado and )  
Pine Bluffs, Wyoming) )

DOCKET FILE COPY ORIGINAL

TO: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

PETITION FOR RULEMAKING

LifeTalk Broadcasting Association ("LifeTalk"), by counsel and pursuant to Section 1.401 of the Commission's rules, hereby petitions the Commission to initiate a rulemaking proceeding to amend the FM Table of Allotments in Section 73.202(b) of the Commission's rules so as to allot FM Channel 288A to Eaton, Colorado, and to reserve that channel exclusively for noncommercial use. In support whereof, the following is respectfully stated.

Eaton, Colorado is an incorporated town approximately 10 miles north of the city of Greeley, Colorado on U.S. Highway 85. According to U.S. Census figures, the population of Eaton in 1990 was 1,959. Eaton meets the threshold definition for a community and is eligible to have an FM allotment. There is currently no broadcast station licensed to Eaton, nor is there a vacant FM or television allotment there.

Submitted herewith as Exhibit 1 is an engineering study which shows that, subject to a site restriction, Channel 288A

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can be allotted to Eaton without violating the separation criteria of Section 73.207 of the Commission's rules except for being short-spaced by 10.26 kilometers to a vacant but applied for allotment for Channel 287C2 to Pine Bluffs, Wyoming. The Eaton allotment would be short-spaced to the sole pending application for Channel 287C2 at Pine Bluffs by 6.29 kilometers (Tracey Broadcasting Corporation ("TBC"), File No. BPH-960205MD).

The reference coordinates for the proposed allotment used in this petition are north latitude 40-27-15 and west longitude 104-37-48. A site restriction of 10.8 kilometers southeast of Eaton will be necessary for this allotment in order to protect KIMX, Laramie, Wyoming on Channel 288A, and KALC, Denver, Colorado on Channel 290C. A service contour map in Exhibit 2 demonstrates that a station operating from the restricted reference site could provide city-grade service (within the 70 dBu or 3.16 mV/m contour) to the community of license, Eaton.

To eliminate the short-spacing between Channel 288A at Eaton and the Pine Bluffs, Wyoming, allotment, LifeTalk proposes that Channel 287C3 be substituted for 287C2 at Pine Bluffs. On Exhibit 1, Channel 287C3 is represented as "RM-1," located at the coordinates of the site proposed by TBC in its application. As Exhibit 1 shows, Channel 288A at the proposed reference site would be sufficiently distant from a first-adjacent Class C3 allotment at either TBC's application site or the site of the original reference coordinates for the Pine Bluffs allotment.

Exhibit 3 shows the effect that this proposal would have upon the service area and population coverage for the Pine Bluffs allotment. Although the Pine Bluffs channel is presently allotted as a Class C2 channel, TBC's application specifies a much smaller facility -- 29.5 kilowatts at 71 meters HAAT. As the map in Exhibit 3 demonstrates, the 60 dBu contour for a Class C3 station at maximum facilities would also surpass the equivalent contour for TBC's proposed station. Thus, the adoption of LifeTalk's allotment proposal would have no practical effect upon TBC's proposed station. TBC's proposed station could exist just as easily within the strictures of a Class C3 allotment as it could within a Class C2 allotment.

LifeTalk's proposal would allow a substantial population to receive a new aural broadcast service as compared to the existing allotment arrangement -- even if one assumes the maximum potential reach for the Class C2 allotment currently in place at Pine Bluffs. The population within the predicted 60 dBu contours of the proposed allotments as compared to the population within the 60 dBu contour of the existing Pine Bluffs allotment is shown below:

Comparative Population		
	Current	Proposed
Eaton	(none) 0	(Class A) 97,754
Pine Bluffs	(Class C2) 9,610	(Class C3) 7,097
TOTAL	9,610	104,851

While this chart indicates the maximum potential for the Class C2 allotment at Pine Bluffs, it should be noted that even this relatively small figure is probably unrealistically generous when compared to whatever service may actually be initiated. The Class C2 Pine Bluffs allotment has passed through a filing window without attracting any applicants. The pending application on this allotment was filed in response to a "First-Come First-Served" announcement. Moreover, the pending application proposes facilities that are less than the maximum for even a Class C3 station. TBC's application is for 29.5 kilowatts ERP at 71 meters HAAT. The population within the 60 dBu contour of TBC's proposed station is only 6,517, as stated by TBC in its application. (LifeTalk calculated this figure to be 6,282). Although it had an unimpeded opportunity to file an application for a full-facility station, TBC chose to propose something less than that. It does not appear therefore that there is a need for a Class C2 allotment at Pine Bluffs. On the other hand, this Petition demonstrates demand for a new service at Eaton which could be accommodated by downgrading the Pine Bluffs allotment to Class C3. 1/

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1/ Despite the clear evidence that there is no demand for a Class C2 facility at Pine Bluffs, it may be that someone will want to preserve the Class C2 allotment. LifeTalk notes that Channel 287C2 at Pine Bluffs could accommodate Channel 288A at Eaton if the site were restricted to an area approximately 15 kilometers north of Pine Bluffs. However, this would appear to complicate TBC's existing plans to construct a station as TBC's proposed site would be short-spaced to the Eaton allotment if the Pine Bluffs allotment remains a Class C2. LifeTalk asserts that downgrading the Pine Bluffs allotment to a Class C3 is the more practical course of action.

It is the Commission's policy to require a successful petitioner who, as here, proposes a modification to an unrelated existing allotment in order to accommodate its own proposal, to reimburse the licensee of the unrelated station for the reasonable costs of modifying its facilities. Circleville, Ohio, 8 F.C.C.2d 159 (1967). In this case however, it does not appear that the affected party, TBC, would incur any expense. TBC is not the owner of a built station, or even of an unbuilt construction permit. Rather, TBC merely has a pending application on the unrelated channel. Furthermore, even if TBC's proposed station were constructed and in operation, the allotment reconfiguration proposed by LifeTalk would not affect that facility and TBC would not incur any expense in complying with the new allotment order. Accordingly, LifeTalk does not anticipate that there would be a need to reimburse TBC for anything if the Commission adopts the proposals suggested herein.

LifeTalk is a nonprofit entity and the station it ultimately hopes to establish at Eaton will offer a noncommercial braodcast service. If a reserved noncommercial frequency were available at Eaton, LifeTalk would apply to construct its station on that channel. Exhibit 4 contains information to demonstrate that openings for applications on reserved band Channels 202, 204 and 205 do exist at the proposed reference coordinates. However, such applications are precluded by the proximity of television Channel 6, KRMA, at Denver. Exhibit 5 shows data for the currently licensed transmitter for KRMA and for a site for which KRMA has a construction permit. The distance from the reference coordinates for the proposed Eaton

allotment to the licensed site is 96.25 kilometers, to the permit site, 96.21 kilometers. These distances place the site at the reference coordinates for the proposed Eaton allotment well within the protected area for Channel 6 required by Section 73.525(a) of the Commission's rules. The minimum distance for protecting Channel 6 by an FM station is 154 kilometers for an FM station on Channel 220. The required distance increases for FM stations on lower frequencies. Accordingly, operating a new station on a reserved FM channel in the Eaton area simply would not be feasible.

In situations such as this, Commission precedent calls for reserving a channel on the nonreserved portion of the FM band for noncommercial use. Butte, Montana, 9 F.C.C.Rcd. 2180 (MMB 1994); Bozeman, Montana, 4 F.C.C.Rcd. 4835 (MMB 1989).

If the Commission allots the requested channel to Eaton, LifeTalk will promptly file an application for authority to construct a new station there. If that application is granted, LifeTalk will promptly construct the new station and initiate a new broadcast service for Eaton and the surrounding area.

In accord with the foregoing, LifeTalk proposes that the FM Table of Allotments, Section 202(b) of the Commission's rules, be amended as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Eaton, Colorado	---	*288A
Pine Bluffs, Wyoming	287C2	287C3.

WHEREFORE, LifeTalk Broadcasting Association respectfully urges the Commission to initiate a rule making proceeding to adopt the above-identified proposal, allotting Channel 288A to Eaton, Colorado and reserving it exclusively for noncommercial use.

Respectfully submitted,

LIFETALK BROADCASTING ASSOCIATION

By: Donald E. Martin  
Donald E. Martin

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Its Attorney

September 9, 1996

**EXHIBIT 1**



LIFETALK BROADCASTING ASSOCIATION  
402 E YAKIMA AVE. st1320 YAKIMA WA 98901

EATON  
CO

REFERENCE

40 27 15 N

104 37 48 W

CLASS = A

Current Spacings

DISPLAY DATES

DATA 07-26-96

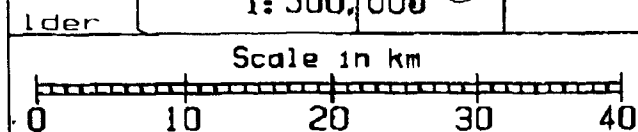
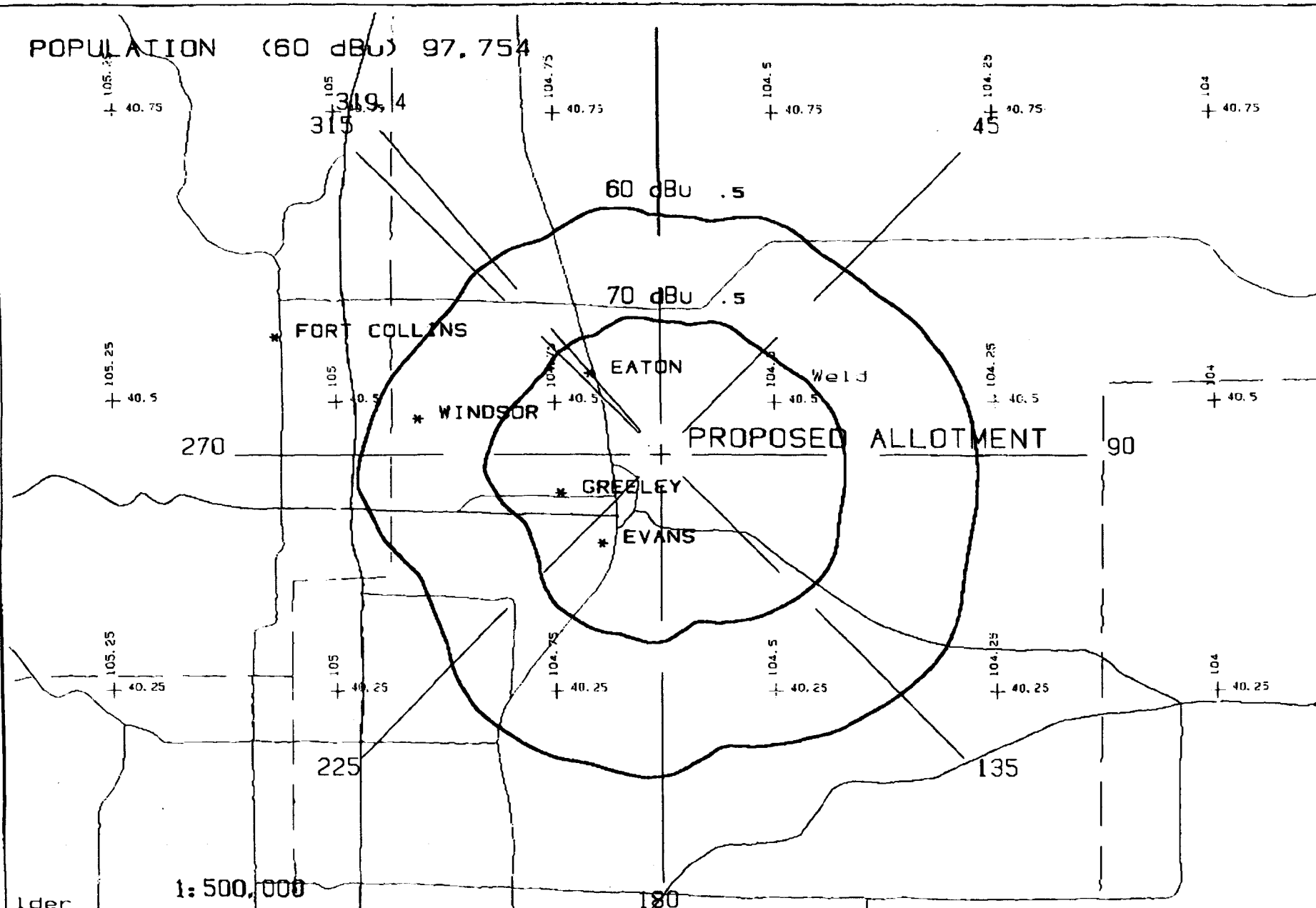
SEARCH 08-13-96

----- Channel 288 - 105.5 MHz -----

Call	Channel	Location	Dist	Azi	FCC	Margin
N. Lat.	W. Lng.	Power	HAAT			
ALOPEN AL	287C2	Pine Bluffs	WY	95.74	25.9	106.0
41 13 41	104 07 47	N	0.000 kW	0 M		-10.26
88-168		WO= 890214			930210	
First Come/First Served Allotment						
Site Restricted-Effective 2-13-89						
AP287 AP	287C2	Pine Bluffs	WY	99.71	27.4	106.0
41 14 58	104 04 52	CN	29.500 kW	71 M		-6.29
		Tracy Broadcasting Corporatio	BPH960205MD		960722	
KIMX LI	288A	Laramie	WY	115.20	323.8	115.0
41 17 15	105 26 38	CN	0.450 kW	295 M		0.20
		Laramie Women's Hispanic Netw	BMLH900126KA		901206	
KALC LI	290C	Denver	CO	95.33	213.0	95.0
39 43 59	105 14 12	DCY	100.000 kW	448 M		0.33
		Great American Television and	BMLH860130KC		940630	
RM-1 RM	287C3	Pine Bluffs	WY	99.71	27.4	89.0
41 14 58	104 04 52		25.000 kW	100 M		10.71
KXKLFM LI	286C	Denver	CO	106.98	207.6	95.0
39 36 00	105 12 35	CN	100.000 kW	356 M		11.98
		Shamrock Broadcasting, Inc.	BLH901023KB		910827	
KPMX LI	288A	Sterling	CO	128.08	85.6	115.0
40 31 57	103 07 22	CN	3.000 kW	91 M		13.08
		BBG Enterprises, Inc.	BLH861223KB		900509	

**EXHIBIT 2**

POPULATION (60 dBU) 97,754



PROPOSED ALLOTMENT 288 6kW 100m HAAT  
N. Lat. 40 27 15 W. Lng. 104 37 48

COEATON RM  
LTBA

**EXHIBIT 3**

50kw @ 150m HAAT

Population 9610

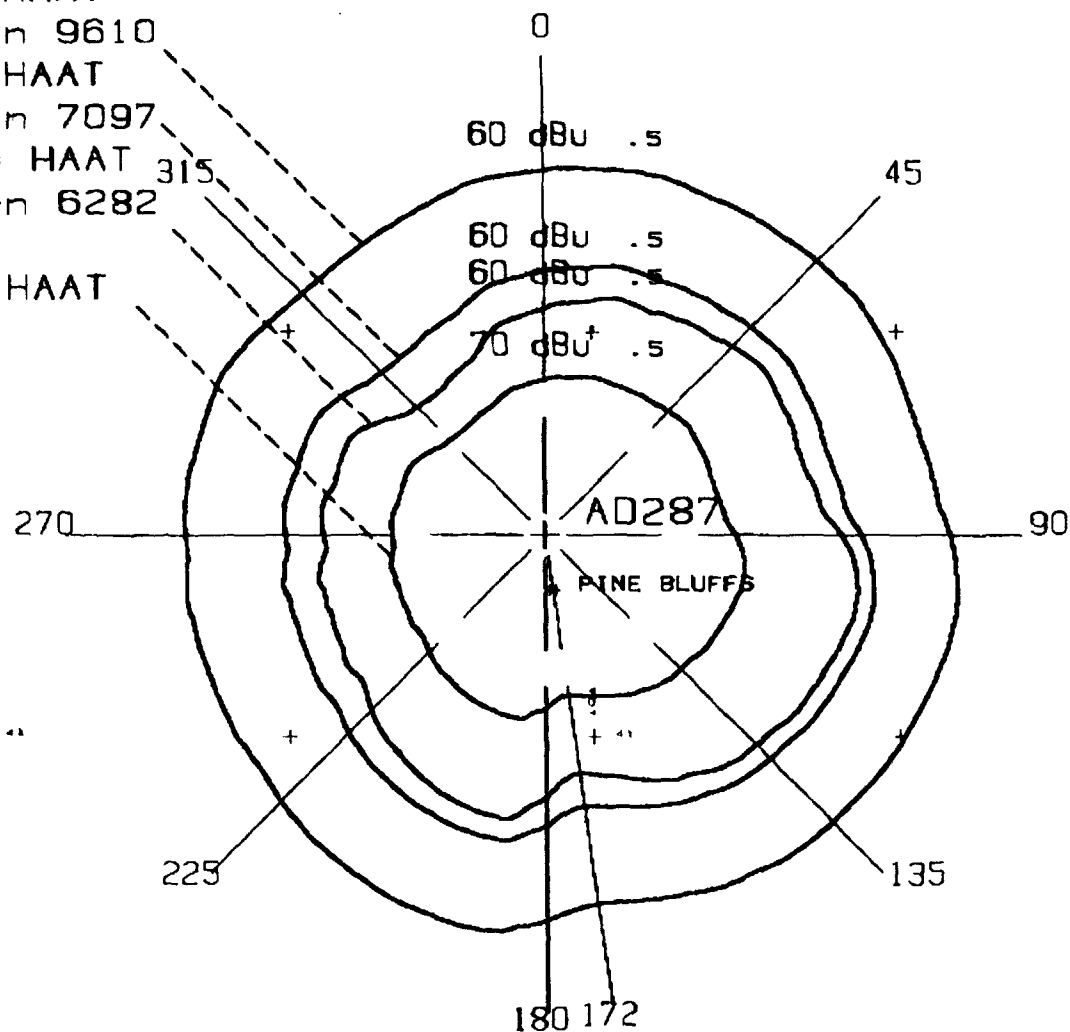
25kw @ 100m HAAT

Population 7097

29.5kw @ 71m HAAT 315

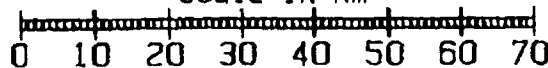
Population 6282

25kw @ 100m HAAT



1:1,000,000

Scale in km



AD287C2

N. Lat. 41 14 58

W. Lng. 104 04 52

WYPNBLFS AP287

LIFETALK B.A.

EXHIBIT 4

08-12-1996

## LIFE TALK BROADCASTING ASSOCIATION

509 248-TALK

CH# 202A - 88.3 MHz

COEATON

INTERFERENCE CHECKS WITH RM, EATON, CO at N. LAT. 40 27 15 W. LNG. 104 37 48

PWR - 6 kW H.A.A.T. = 100 M

Protected F(50-50) 60 dBu - 28.29 km

F(50-10) 40 dBu = 86.66 54 dBu = 43.74 80 dBu = 9.1 100 dBu = 2.75

CH#	CALL	TYPE	- IN -	* OUT *	BEARING	DISTANCE	LAT.	PWR (kW)	INT (km)	PRO (km)
CITY	STATE	LICENSEE			<-->		LNG.	HAT (M)	COR (M)	FILE #
201A	AP201	AP HY	40.1	33.7	213.3	96.21 km	39 43 49	0.13	27.81	18.80
Westminster	CO	Southwest Florida Communit			33.3	59.78 Mi	105 15 00	292.0	2349	EPED960521MA
203A	KGNU	LI CN	16.0	3.3	220.9	67.90 km	39 59 32	1.30	23.61	15.85
Boulder	CO	Boulder Community B/C Asso			40.9	42.19 Mi	105 09 10	66.0	1731	BLD1807
i.f. RELATIONSHIPS:										
256C1	KUADFM	LI CN	22.0 R	4.4 M	322.6	26.36 km	40 38 34	100.00	27.64	63.89
Windsor	CO	Northern Colorado Radio, I			142.6	16.38 Mi	104 49 08	201.0	1762	BLH6702

- Nearest CH 6 Grade B -KRMATVat-6.66 km

08-13-1996

## LIFE TALK BROADCASTING ASSOCIATION

509 248-TALK

CH# 204A - 88.7 MHz

COBATO

INTERFERENCE CHECKS WITH RM, EATON, CO at N. LAT. 40 27 15 W. LNG. 104 37 48

PWR - 6 kW H.A.A.T. = 100 M

Protected P(50-50) 50 dBu = 22.29 km

F(50-10) 40 dBu = 86.66 54 dBu = 43.74 90 dBu = 9.1 100 dBu = 2.75

CH#	CALL	TYPE	" IN "	" OUT "	BEARING	DISTANCE	LAT.	PWR(kW)	INT(km)	PRO(km)
CITY	STATE	LICENSEE			<---		LNG.	HAAT(M)	COR(M)	FILE #
201A	AP201	AP HY	67.1	74.7	213.3	96.21 km	39 43 49	0.13	0.78	18.80
Westminster	CO	Southwest Florida Communit			33.3	59.78 Mi	105 15 00	292.0	2349	BPED960521MA
203A	KGNU	LI CN	16.0	8.3	220.9	67.90 km	39 59 32	1.30	23.61	15.85
Boulder	CO	Boulder Community B/C Asso			40.9	42.19 Mi	105 09 10	66.0	1731	BLED1807
204C1	KOME	LI CN	2.5	31.3	186.0	190.79 km	38 44 42	13.00	159.97	72.84
Manitou Springs	CO	Cheyenne Mountain Public B			6.0	118.55 Mi	104 51 39	661.0	2910	BLED920330KF
207C1	KUVO	LI CN	61.6	37.4	213.3	96.20 km	39 43 49	22.50	6.35	56.08
Denver	CO	KUVO/Denver Educational Br			33.3	59.78 Mi	105 14 59	278.0	2333	BLED851022KD

## i.e. RELATIONSHIPS:

258C1	KGHK	LI CN	22.0 R	69.4 M	200.6	91.40 km	39 41 01	100.00	5.37	47.84
Denver	CO	Tribune Sacramento Radio,			20.6	56.79 Mi	105 00 25	85.0	1753	BLH5540
FCC Comment > *To Channel 258C Per One-Step Application 940914IH										
258C	KGHK.C	CPMDEN	29.0 R	66.6 M	212.7	95.62 km	39 43 45	100.00	12.53	86.42
Denver	CO	Tribune Sacramento Radio,			32.7	59.42 Mi	105 14 06	495.0	2262	BMPH950914IE
FCC Comment > HAAT DETERMINED BY ONLY 4 RADIALS										

- Nearest CH 6 Grade B -KRMATVat-6.66 km



08-13-1996

## LIFE TALK BROADCASTING ASSOCIATION

509 248-TALK

CH# 205A - 88.9 MHz

COBATOR

INTERFERENCE CHECKS WITH RM, EATON, CO at N. LAT. 40 27 15 W. LONG. 104 37 48

PWR - 6 kW H.A.A.T. = 100 M

Protected F(50-50) 60 dBu = 28.29 km

F(50-10) 40 dBu = 86.66 54 dBu = 43.74 80 dBu = 9.1 100 dBu = 2.75

CH#	CALL	TYPE	* IN *	* OUT *	BEARING	DISTANCE	LAT.	PWR(kW)	INT(km)	PRO(km)
CITY	STATE	LICENSEE			<---		LONG.	HAAT(M)	COR(M)	FILE #

203A	KGNU	LI CN	34.6	43.0	220.9	67.90 km	39 59 32	1.30	5.05	15.85
Boulder	CO	Boulder Community B/C Asso			40.9	42.19 Mi	105 09 10	66.0	1731	BLED1907
204C1	KOME	LI CN	55.3	74.2	186.0	190.79 km	38 44 42	13.00	107.21	72.84
Manitou Springs	CO	Cheyenne Mountain Public B			6.0	118.55 Mi	104 51 39	661.0	2910	BLED920330KP
207C1	KUVO	LI CN	45.5	31.0	213.3	96.20 km	39 43 49	22.50	22.36	56.08
Denver	CO	KUVO/Denver Educational Br			33.3	59.78 Mi	105 14 59	278.0	2333	BLED851022KD

## i.f. RELATIONSHIPS:

258C1	KXHK	LI CN	22.0 R	69.4 M	200.6	91.40 km	39 41 01	100.00	5.37	47.94
Denver	CO	Tribune Sacramento Radio,			20.6	56.79 Mi	105 00 25	85.0	1753	BLH5540

FCC Comment > \*To Channel 258C Per One-Step Application 940914IH

258C	KXHK.C	CPMDEN	29.0 R	66.6 M	212.7	95.62 km	39 43 45	100.00	12.53	86.42
Denver	CO	Tribune Sacramento Radio,			32.7	59.42 Mi	105 14 06	495.0	2262	BMPH950914YE

FCC Comment > HAAT DETERMINED BY ONLY 4 RADIALS

- Nearest CH 6 Grade B =KRMATVat-6.66 km

**EXHIBIT 5**

Grade A (68 dBu)= 53.8 km., 33.42692 Mi.  
Grade B (47 dBu)= 102.87 km., 63.93412 Mi.

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<Enter> for more, # to change, type X to stop?

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# 5 1. DENVER, CO 2. KRMATV 3. Ch. 06-  
4. 100 kW 5. 268 M, 979' HAAT 2334 M COR AMSL  
6. 39 43 47 7. 105 14 59 8. LI 9. Ant = KN  
COUNCIL FOR PUBLIC TV, CH- BLET414  
Bearing= 213.3 ° 33.3 ° Distance= 96.25 km., 59.81 Mi.  
Grade A (68 dBu)= 52.12 km., 32.39279 Mi.  
Grade B (47 dBu)= 100.69 km., 62.57924 Mi.

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Command ?

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# 4 1. DENVER, CO 2. KRMATV 3. Ch. 06-  
4. 100 kW 5. 292 M, 958' HAAT 2349 M COR AMSL  
6. 39 43 49 7. 105 15 00 8. CPM 9. Ant = HY  
COUNCIL FOR PUBLIC TV, CH- BMPET921211KE  
Bearing= 213.3 ° 33.3 ° Distance= 96.21 km., 59.78 Mi.  
Grade A (68 dBu)= 53.8 km., 33.43692 Mi.  
Grade B (47 dBu)= 102.87 km., 63.93412 Mi.

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<Enter> for more, # to change, type X to stop?

CERTIFICATE OF SERVICE

I, Donald E. Martin, hereby certify this 9th day of September, 1996, that I have caused a copy of the foregoing document to be served by United States mail with first class postage prepaid upon the following:

Michael J. Tracy  
Tracy Broadcasting Corporation  
P. O. Box 532  
Scottsbluff, Nebraska 69363

  
Donald E. Martin